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ADMITTED IN
ALABAMA
MARYLAND
NEW YORK
DISTRICT OF COLUMBIA

March 18, 2008

Honorable Frederic Block
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

* Via FedEx: 864229073919 and ECF *

Re: *Grancio v. Devecchio et al.*; 06-CV-0069 (FB)(CPP)

Dear Judge Block:

Enclosed please find a hard copy of Mrs. Grancio's Reply to the Defendants' Opposition to the Rule 56(f) motion. It consists solely of my 5 page Reply Affirmation. It was filed electronically, of course, and defense counsel were served through the ECF system.

Under the agreed upon schedule for the Rule 56(f) motion, all papers, including any reply, were due to be filed yesterday, March 17, 2008. I was not going to file a reply; however, I was incensed by certain representations in Defendant Devecchio's papers and by the tone of the same, and while the matters at issue were not critically important, I decided to file a brief reply directed toward some limited portions of that Defendant's filing. I decided to wait until late in the day to give the attorney who filed those papers an opportunity to correct on his own one of the misrepresentations that I brought to his attention in an email and suggested that he might want to correct. I also had a deadline of yesterday for a comprehensive set of motions in another case.

When I finished typing the Reply it was still March 17th and I did not anticipate any problems with filing and service; so I prepared the Certificate of Service to reflect its service on the 17th. However, I had trouble with the ECF system. It was not a problem with the system; rather it was my lack of technical prowess. I could not find the right command among the options given to indicate the previous filings to which this filing was to be linked. The result was that the document was not filed and served until 7 minutes past Midnight. The 18th had begun and so the Certificate of Service is not accurate to the extent it reflects service on the 17th. If the Court finds this impermissibly out of time, so be it. I at least wanted to correct the Certificate of Service and give the Court an accurate account of the relevant facts.

Respectfully,



David Schoen

cc: All counsel via ECF
Honorable Cheryl L. Pollak (U.S.M.J.)